



National Association of Tower Erectors

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Comments from
The National Association of Tower Erectors
to
the Federal Communications Commission
on
Notice of Inquiry Comment Review:
Avian/Communication Tower Collisions
Submitted: September 30, 2004**

I. Introduction

The National Association of Tower Erectors (NATE) is a non-profit organization serving as the unified voice of the tower erection, service, and maintenance industry. Formed in 1995 with 62 founding member companies, NATE is now comprised of approximately 500 member companies, representing over 80% of employees who are erecting communications towers.

NATE has worked on a variety of issues with a number of federal agencies, including the Federal Communications Commission, the Occupational Safety and Health Administration, the National Institute for Occupational Safety and Health, and the U.S. Fish and Wildlife Service, on policy matters that affect the safety and/or effective operations of the tower erection industry nationwide. Its representatives also have extensive experience in interacting with Members of Congress, their staffs, and congressional committees and staffs in addition to professional relationships with a number of interest groups.

II. Overview

NATE has reviewed the Notice of Inquiry Comment Review document submitted by Avatar Environmental, LLC, EDM International, Inc., and Pandion Systems, Inc. on September 30, 2004, which itself reviewed and reported on information and comments submitted to the FCC in response to its Notice of Inquiry (NOI) of October 2003. In the 2003 NOI, the FCC indicated

its intention to gather comment and information on the impact that communications towers may have on migratory birds.

NATE formally submitted comments to that NOI in which we offered

“the extensive background of our members in the telecommunications tower arena and the extraordinary amount of their experience in terms of tower personnel working at tower sites in the very early morning. Further, we offer our expertise – not to mention our vested interest – in a collaboration with the FCC, other federal agencies, and other interested parties in researching and reviewing the matter at hand. We have also conveyed our abiding interest in continuing to work with the U.S. Fish and Wildlife Service and the Communication Tower Working Group as they explore ways to protect migratory birds, at present by seeking comment on the USFWS’ Draft Strategic Plan entitled, “A Blueprint for the Future of Migratory Birds,” which is examining other potential causes (including illness, predation, degradation of habitats, and collisions with buildings) of the possible loss of migratory birds.”

At that time, we noted that not only had NATE not undertaken scientific studies on birds colliding with towers, we strongly asserted that adequate scientific study and analysis had not been performed recently by anyone or any organization to support mitigation or punitive actions. In fact, while we acknowledged that we had a great deal of anecdotal reports which suggest that only under the most severe weather conditions have we ever found more than a few dead birds at or near the base of telecommunications towers in the early morning hours, and at no time had the numbers reached the extreme reports of thousands or even hundreds of bird deaths which have been suggested by other sources, we maintained – and continue to maintain – that more research is necessary.

Having said that, we appreciate the fact that the review by Avatar et al. specifically cites comments submitted by, among others, CTIA, PCIA, NAB, and NATE. The description in the comment review report accurately notes that NATE’s submittal and anecdotal reports are not based on scientific studies, and states on several occasions that “It is not clear how these conclusions were derived” and that no study designs, statistical review, or supporting data were presented. That is exactly our point.

Our comments to USFWS indicated that we concurred with the stated intention that the research to be undertaken would examine a variety of possible factors which may contribute to migratory bird problems, including habitat loss and deterioration, pesticides and other contaminants, illnesses, and predators. In addition, the research coordinated by that agency was to also explore towers and other structures. We respectfully suggested that it would be altogether appropriate

to look at buildings and such other non-telecommunication structures as energy towers, windmills, and the like.

Moreover, while we had not conducted formal studies or research, our comments did in fact respond to requests for recommendations.

III. Comments on Sections 1-4 of the “Notice of Inquiry Comment Review: Avian/Communication Tower Collisions”

At the outset, the NATE Board of Directors wished to reiterate its appreciation to the FCC for its attempt to expand the knowledge base and the universe of currently known data on the relationship between migratory birds and communication towers. We agree strongly with the FCC’s view on the current state of scientific information. We ourselves freely acknowledge that we have no new information to present beyond that which we provided previously. Accordingly, we will restrict our comments to certain key provisions of the comment review document, including the conclusions and recommendations contained in Section 5. We believe that it is important for organizations such as ours to maintain a presence and a visibility on matters such as this as often as possible – even when our views are already known. Accordingly, we write in part to react to the comments contained in the Avatar Environmental Team’s report.

As we noted in our response to the previous NOI, and as we note herein, our comments by necessity are somewhat general in nature, although we reiterate our interest in cooperating with the research and the researchers. (NATE has not undertaken formal studies or scientific research to date). Moreover, while the comments and observations of our members are indeed anecdotal, the common theme is that our observations parallel those of CTIA, PCIA, and NAB, to whose views we wish to align ourselves.

Naturally, we again feel constrained to highlight a basic premise expounded by the FCC: that “current knowledge about both the extent to which towers kill migratory birds and the specific factors that may contribute to any danger is limited.” Once more, we commend the FCC for its realistic approach as well as its acknowledgment that, “for the 5-year period 1995-1999, very little research was published or conducted that is relevant to the bird-communications tower collision issue.”

Generally, a considerable amount of the material contained in the Avatar document reaffirms the absence of sufficient research on the relationship between birds and towers (although we acknowledge inclusion in the document but most assuredly do not endorse statements that link high incidences of avian mortality to communication towers). We were struck by the consistency of such comments, of which the following are just some examples:

“Estimates of tower-related avian mortality vary widely” (page 1-1);

“Although not all towers present the same collision risk, there is a consensus among the respondents that more information is needed to specifically identify the associated factors and the degree that each factor contributes to avian collision risks at communication tower sites” (pages 3-19 and 3-20);

“No recent research was provided to account for the actual numbers of birds killed at communication towers” (page 3-20);

Even the U.S. Fish and Wildlife Service “acknowledg[es] that much is simply still not known about the impacts of communication towers on birds” (page 3-23);

“Existing data are not sufficient to draw direct conclusions between tower height and migratory bird collisions” (page 3-37);

“[N]o specific studies comparing avian collisions between guyed and self-supporting structures are known to occur” (page 3-37);

“Based on the reviews of the NOI comments and available literature, not enough is known to recommend different types of mitigation for mortality” (page 3-56); and

“According to the USFWS, because so few studies have been conducted at both short and tall towers, it is premature to debate the impact and mortality caused by communication towers on birds until systematic research is conducted nationwide” (page 3-39).

This last statement is the crux of our contention.

Not only does NATE strongly recommend research into the migratory bird matter – certainly as one important step toward eliminating continual reference to studies that are decades old – we urge that such work be undertaken in a scientific manner.

In fact, our response to the National Fish and Wildlife Foundation, which requested NATE’s input as part of the peer review process in preparation for the Michigan state police tower study referenced in the Avatar document, addressed this very matter; and, since the Avatar paper also suggests the efficacy and appropriateness of estimating bird counts, we will share excerpts from our comments to the NFWF:

“We also take great exception to estimated bird counts. For example, the paper starts out by referencing a site personally studied at which 22 bird carcasses were found, then includes an estimate that, on the basis of predators removing

carcasses, vegetation hiding carcasses, and the fatigue of the reporter, was increased dramatically. Increasing the “actual avian mortality” to be 51 birds represents an increase of over 200% of the actual carcass count, which sounds to us like guessing, not science.”

In regards to the Michigan study, we made several other points worth recounting here:

- “The proposal repeats that 5,000 new towers are built each year, based on data from the year 2000. The year 2000 was at the height of the telecom build-out, and does not accurately reflect current tower construction activity. Between the industry slow-down and collocation, the annual new construction is significantly less.”
- “[T]he proposal states: “I did not include those towers within 1 mile of extensively-lighted areas....” However, such facilities near lighted areas DO exist in large numbers, and the findings may show greater percentages of impacts than actually occur.”
- “The USFWS “conservation estimate” of 4 to 5 million bird collisions with towers annually has not been documented. While this may indeed represent a dramatic decrease from some of the other “estimates” and a lightening of the rhetoric we have heard, there is still no science to support these numbers – which USFWS purports as fact and the basis for considering punitive action and mitigation steps...Citing such estimates, much less using them as the basis for a study, seems to prejudice the research by assuming data that is still highly questionable. This is putting the cart before the horse.”
- “There is also an implication that towers are bad, when in fact they serve the public and private interest to an enormous degree.”
- “Beyond our strong recommendation that a balanced approach be taken that relies on scientific research and observation rather than unproven allegations and outdated or even anecdotal reports, we suggest that the socioeconomic and homeland security implications be carefully weighed and considered by decisionmakers after the study is completed.”

IV. Comments on Section 5 (Conclusions and Recommendations) of the “Notice of Inquiry Comment Review: Avian/Communication Tower Collisions”

In NATE’s view, the overriding message of Section 5 – with which we again heartily concur – is that more information is needed. At the risk of being repetitious, several statements highlight this recommendation:

- “It is difficult to predict with any significant level of certainty, the relative incidence of bird collisions anticipated for a proposed communication tower site without pre-construction site analyses and pre- and post-construction monitoring programs” (page 5-1);

- “There are no studies to date that demonstrate an unambiguous relationship between avian collisions with communication towers and population decline of migratory bird species” (page 5-2); and
- “More research is warranted in order to identify specific causes and possible solutions to this problem” (page 5-2);

We caution against using information purported to be fact as the basis for action or even as the premise for drawing particular conclusions. In our opinion, it would be more responsible to pose a hypothesis, a theory, and set out to prove or disprove it, rather than set out to affirm a questionable series of “facts.” Statements which continue to refer to outdated research (example: “When examining the studies and incidental reporting of bird mortalities within the last 50 years...”) themselves diminish not only the accuracy, but the objectivity of any analysis.

A prime example of this is estimating dead and injured birds. As our previous comments on the Michigan study indicated, this is inaccurate, irresponsible, unscientific, and unfair. Good science dictates that conclusions should result from quantifiable observations, not guesswork. The study biases noted in the recommendation matrix (page 5-6) states that “Estimating dead and injured birds can result in an underestimation of mortality if biases are not taken into account.” This is a truly astonishing statement; estimations are by definition inaccurate. We object to estimations entirely. Do the authors of this document actually mean to say that the observations of scientists and researchers can result in underestimations? That, too, would be astonishing.

To reiterate, the recommendations matrix repeatedly seems to lament the absence of solid research on or tests of possible mitigation steps, such as products on guy wires intended to mitigate bird collisions and various tower lighting mechanisms. If there were such tests, would the results be quantifiable and accurate, or would they, too, be viewed as underestimations? We are looking for consistency.

On the other hand, including such recommendations as “Review the results of these studies as they become available and incorporate relevant results and conclusions into their review of FCC tower applications and, where appropriate, provide comments on these applications” (page 5-5) is altogether fitting and appropriate.

V. Conclusion

As noted, NATE believes strongly that it, along with others in the communications field, must be involved throughout the process envisioned in the Notice of Inquiry as well as in any possible rulemaking procedure which might subsequently ensue.

NATE looks forward to continued participation in the Communication Tower Working Group, and respectfully suggests that USFWS personnel and environmental representatives refrain from engaging in a witchhunt. We are looking to be reasonable, responsible, and objective while looking at the big picture (i.e., societal impacts, other manmade and environmental contributions to possible bird collisions, and the like), and request the same from those whose views differ from ours.

In short, NATE wishes to be a partner in this endeavor, but does not wish to simply be the accused. We have shown our willingness to partner with reasonable federal agencies, as we have demonstrated with our strong relationship with the Occupational Safety and Health Administration. Similarly, we have frequently commended the FCC in a number of areas, including the migratory birds matter. The U.S. Fish and Wildlife Service, however, is another matter, although we are ready, willing, and able to continue working with its representatives in a responsible manner.

Your consideration of these comments and recommendations is greatly appreciated. If you have questions or need additional information, please don't hesitate to contact NATE at the address listed below:

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